

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ISAAC BRIGGS,

Plaintiff,

V.

ROBERT R. DIXON, et al.,

Defendants.

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Civil No. **05-266-DRH**

ORDER

PROUD, Magistrate Judge:

Before the Court is plaintiff's motion for default judgment against the defendants, due to their failure to answer the complaint or otherwise enter an appearance in this action. (Doc. 40).

As a preliminary matter, the Court notes that default has never been entered against the defendants. Therefore, plaintiff's motion is premature. *See* Fed.R.Civ.P. 55(a). The motion is also premature in that it was also filed prior to the date the defendants' answers or other responsive pleadings were due.

A review of the record reveals that the U.S. Marshal served request for waivers of service on the defendants, which were executed December 13, 2006. (Docs. 31-38). The defendants answers or other responsive pleadings were due February 12, 2007. Plaintiff's motion was sent from the prison on February 2, 2007, and formally filed on February 12, 2007. (Doc. 40).

In any event, the defendants were all granted an extension of time to file their responsive pleadings, and as of this date all defendants have entered their appearance and filed a responsive pleading. (Docs. 42, 54 and 55).

IT IS THEREFORE ORDERED that plaintiff's motion for entry of default judgment

(Doc. 40) is **STRICKEN**, as it was filed prematurely and is now moot.

IT IS SO ORDERED.

DATED: June 18, 2007

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE